

It is at this exact moment that the excessive overlap between the development and production that was originally structured into the JSF Program—called concurrency—is now coming home to roost. It means that you deliver aircraft to the owners—in this case, the Air Force—and at the same time continue testing. That is something we warned against over and over as not having worked, but it was done in order to make an effort to have some semblance of their schedule being adhered to of delivery of aircraft. Lockheed Martin doesn't want to bear the risk of new discoveries that may require retrofit or redesign of the aircraft.

Based on the in-depth studies the Department has conducted to date, Admiral Venlet told the publication AOL Defense last week that the Joint Strike Fighter Program needs to slow down production and deliveries of the aircraft. He explained that this was necessary to open the aircraft and install fixes to numerous structural cracks and "hot spots" the program has discovered in the plane in the last year or so. He estimated that the work needed to remedy these cracks could add an additional \$3 million to \$5 million per aircraft.

Bear in mind that this revelation comes on top of the fact that the Department has just reduced the latest F-35 purchase—what will be lot five—by five jets. Admiral Venlet concluded that even as the Pentagon negotiates with Lockheed Martin on lot five of the aircraft under the terms of a fixed-price contract, there is much "heavy learning" that remains in the program. Here is what Admiral Venlet said:

The analyzed hot spots that have arisen in the last 12 months or so in the program have surprised us at the amount of change and at the cost. Most of them are little ones, but when you bundle them all up and package them and look at where they are in the airplane and how hard they are to get at after you buy the jet, the cost burden of that is what sucks the wind out of your lungs. I believe it's wise to sort of temper production for a while here until we get some of these heavy years of learning under our belt and get that managed right. And when we've got most of that known and we've got the management of the change activity better in hand, then we will be in a better position to ramp up production.

Mr. President, 2001 was the year we decided to build this aircraft. So here we are 11 years later, and the manager of the program says, "And when we've got most of that known and we've got the management of the change activity better in hand, then we will be in a better position to ramp up production." I am not making this up. Admiral Venlet, who oversees the JSF Program for the Pentagon, is basically saying that even after the program was restructured 2 years ago by Secretary Gates to add \$7.3 billion and 33 more months to development, there is still too much concurrency baked into this program. In other words, the overlap between development and production is

still too great to assure taxpayers that they will not have to continue paying for costly redesigns or retrofits due to discoveries made late in production. In that context, ramping up production—even under the program's revised schedule—would not be a move in the right direction. I absolutely agree.

When the head of the most expensive, highest profile weapons system program in U.S. history effectively says: Hold it, we need to slow down how much we are buying, we should all pay close attention.

What does this mean in terms of the pending negotiations for the next production lot? As I said a few days ago during my opening remarks on Senate consideration of the fiscal year 2012 National Defense Authorization Act, I strongly support the Department's position. I think Admiral Venlet's concerns are completely consistent with the view reflected in the Senate Armed Services Committee's markup of the Defense authorization bill.

As we negotiate to buy more early production jets at a time when most of the developmental testing of the aircraft is yet to be done, Lockheed Martin must be held increasingly accountable for cost overruns that come as a result of wringing out necessary changes in the design and manufacturing process for this incredibly expensive weapons system. For this reason, the Department must negotiate a fixed-price contract for this next lot of aircraft that requires Lockheed Martin to assume fully any cost overruns. I expect that this contract negotiation will reflect unit costs that are lower than for the last lot purchased and that the contract will ensure shared responsibility for reasonable concurrency cost increases.

Put simply, the deal we negotiate on this next production lot must be at least as good, if not better, than the deal we negotiated under the previous one; otherwise, I can only conclude that we are moving in the wrong direction, and it will only be a matter of time before the American people and the Congress and our allies lose faith with the F-35 program, which is already the most expensive weapons program in history.

One thing is clear: The culprit is, among other things, excessive concurrency, which is overlap of trying to develop an advance aircraft at the same time as we buy production model aircraft intended for training and operations. The danger of excessive concurrency is the grand, enormously expensive lesson of the Joint Strike Fighter Program, a lesson we continue to overlook at our peril: Trying to execute a strategy for the acquisition of a major weapons system that has too much concurrency baked into it under a cost-type contract is absolutely a recipe for disaster.

In so many different aspects, the F-35 program truly represents a tragedy. The Air Force, Navy, and Marine Corps desperately need a new aircraft to take

the place of the current strike and fighter jets that have been at war for most of the last 10 years. These well-worn legacy aircraft are coming to the end of their service lives, but we are saddled with a program that has little to show for itself after 10 years and \$56 billion in taxpayer investment that has produced less than 20 test and operational aircraft, a bill for \$¾ billion, and the promise of considerable "heavy learning" yet to go.

Admiral Venlet's message last week clearly conveyed the path we are on is neither affordable nor sustainable. On that fact he and I are in total agreement. But that agreement provides very little solace. If things don't improve quickly, taxpayers and the warfighters will insist all options will be on the table, and they should be.

Mr. President, I came to the Senate floor today to talk specifically about the F-35 aircraft. I will be coming to the floor again on the whole issue of what is, unfortunately, a culture of corruption in the Pentagon as far as weapon systems acquisition is concerned. Time after time, with regard to the future combat system, the F-35, the shipbuilding, the littoral combat ship, there is story after story after story of cost overruns, of cancellation, of delays, of incredible cost to the taxpayer. We never should have gotten into it. We simply cannot afford to do it now. We have to reform the culture of corruption that pervades the Pentagon, and we must reform the way we acquire the weapons and the systems necessary to defend this Nation.

I am not saying there aren't success stories. Certainly, there are. MRAP is an example of a success story. But when we look at the tens of billions and billions of dollars that have been wasted on research and development on weapons systems that never got off the ground, when we look at what happened to the future combat systems, the littoral combat ship, now the F-35, there must be reform or the taxpayers and citizens of America will lose faith in our ability to defend this Nation at a cost that is reasonable in these extremely difficult economic times for all Americans.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYROLL TAX HOLIDAY

Mr. KYL. Mr. President, the reason I wish to speak is because there is a lot

of confusion around something called the payroll tax holiday. It is legislation that is likely to be acted upon by the Congress and perhaps a bill will be sent to the President before the end of this year. It is something the President is pushing very strongly to try to achieve. There are a lot of different versions of it and a lot of confusing ideas about what people support and what they do not. I wish to talk a little bit about that.

First of all, what is it? The payroll tax is the tax that funds Social Security. It is a tax that is paid on the employee's wages. Half of that is paid by the employee, half of it is paid by the employer. From the employee's standpoint, the more they pay in, the more they get out when they retire; the less they pay in, the less they get out. That is what funds Social Security.

There is a question: Why would someone not support a reduction in the payroll tax—or as it is called right now a temporary payroll tax holiday because what is being proposed is that a portion of that tax would not be paid. It represents one-third the amount of the tax an employee would ordinarily be paying that is not being paid today. The President would actually like to cut that to the point that an employee would only pay half the payroll tax liability. I understand he is going to revise his proposal and not ask there be any relief on the employer's side. What the President, therefore, is asking is that half of what an employee pays—or 3.1 percent of payroll—not be paid for 1 more year.

The first reason one should think carefully about extending this holiday is that, as I said, this is what funds Social Security. For an employee, the less they pay in, the less they are going to get out. If you are OK with that, then think about the program writ large. Social Security is in big financial trouble. We all know that. As a result, the less we put into it, then the less money there is to pay benefits for people who are on retirement.

What is happening with this particular shortfall is that we are paying for it out of general revenues. What is happening is, since we borrow 40 cents out of every \$1 we spend in this country, we are going to go someplace, such as to the Chinese, for example, and we are going to borrow the money. Out of \$1 that we want to spend, we are going to borrow 40 cents of that, and then we are going to put that money into the Social Security trust fund that is immediately going to be paid to somebody who is on Social Security.

What is the problem with that? Seve-
 eralfold. First of all, as we said, the amount of money we put through the payroll tax into Social Security is what we are going to get back. If we put less in, we are going to get less back.

Second, because Social Security is already broke, that means the United States has to borrow the money to put back into Social Security in order to

keep it going. When we do that, then there is less money in general revenues to pay for other things. So, yes, our general tax revenues and borrowing can make up for that difference in the payroll tax that is not being paid in now, but that means there is that amount of money less available for education benefits or agriculture or the Defense Department or whatever else we might be wanting to spend the money on. The fact is, if we are going to spend the same amount of money as the Federal Government and now we are increasing the amount we have to spend on Social Security, there is less to spend elsewhere.

I find it ironic that our Democratic friends in particular would think this is a good idea. I ran across something from the AARP, back in 2010. I wish to quote from it. This is a press release dated just about exactly 1 year ago, December 7, 2010, by Thomas Bethell. The subject is "What the Payroll Tax Cut Means for Social Security." He quotes Nancy Altman, who is co-director for Social Security Works, which, as he said, describes "a worst-case scenario."

She thinks the cut could well become permanent.

If that happens, Social Security's long-term shortfall could double over 75 years, she says, and political pressure to downsize the program could mount. That could lead to converting Social Security from a universal insurance program to a welfare program, with the numerous drawbacks of programs for the poor, including low public support.

If this scenario unfolds, says Altman, "it's good-bye, Social Security."

His conclusion is "there is little doubt that reducing the payroll tax carries a risk."

That is the first reason I think one should be very careful about deciding that since tax cuts are usually appreciated by people, therefore, this is one we should extend, even though it is just temporary.

That brings up the second point. It can be argued this is very bad economic policy. There is no evidence this temporary tax cut has actually produced any new jobs, which is the whole idea. In fact, our economy has decelerated. In 2010, we had a 2.8-percent GDP growth. We are now down to just over 1 percent. Unemployment remains stubbornly high. In fact, I thought I would quote from a commentary of Ed Gillespie on "FOX News Sunday." Yesterday, he was asked a question by Chris Wallace about the payroll tax.

First of all, 50,000 of those jobs—

Meaning the jobs that have been created now in the economy over the last month—

50,000 of those jobs are retail jobs that likely could be temporary for the holiday season. On top of that, for every two people who found a new job, five people left the workforce entirely, which is part of a continuing pattern.

In fact, if the labor force today were the same size it was when President Obama took office, the unemployment rate would be 11 percent. So, shrinking the labor force is not

the right way to bring down the unemployment rate. . . .

The point is, a lot of people have stopped looking for jobs. That is one reason why the unemployment rate actually went down. There are plenty of economists who will tell us reducing the payroll tax is not a good way to create jobs. I am going to quote from three or four.

As taxes go, the payroll tax is a big revenue raiser and one of the least damaging to work incentives. So cutting it is a poor choice if jobs are the objective.

Arthur Laffer, economist, in the *National Review*, the last day of October this year.

Troy Davig, an economist with Barclays Capital, Reuters:

Hiring is a long-term contract and this is a short-term stimulus.

Meaning the temporary payroll tax holiday.

Neil Dutta, an economist with Bank of America Merrill Lynch, says:

Nothing that's likely to get done—with regard to the payroll tax—is going to have a meaningful impact in terms of lowering the unemployment rate and creating jobs.

Bruce Bartlett, in the *New York Times*, is quoted in August of this year:

There is no evidence that the lower payroll tax has done much of anything to stimulate either spending or hiring.

In the *New York Post*, by Andrew Biggs, some time ago now:

The payroll-tax holiday is a dubious idea. . . .

Finally, Charles Blahous, who is a real expert on Social Security and an economic research fellow at Stanford's Hoover Institution, says:

Taking real tax revenue away from Social Security and issuing debt in its place—the policy now in effect—is the worst of all worlds, both for the program and for the budget.

It does not stimulate the economy, doesn't produce jobs, and it creates a budgetary problem for Social Security itself.

I also believe, the third point is, it can be bad tax policy. I note from a *Wall Street Journal* editorial, dated December 2—here is the beginning of it:

So here's the latest Democratic job growth plan: Pay for a temporary tax cut that has already proven not to create jobs with a permanent tax increase that almost certainly will cost jobs.

That's the essence of Senate Majority Leader Harry Reid's plan to finance a one-year payroll tax cut with a 3.25 percent tax surcharge on upper-income Americans that would last for at least 10 years. I understand now they are thinking about revising that for this exact reason, but that is the point. The surtax is, in reality, a new tax that primarily hits small business owners. They are the ones who create the jobs. Almost all of the new net jobs created since the 1980s are in small businesses. They create about 70 percent of the new jobs, most of them coming out of the recessionary time we are in.

And what does Treasury say about the people who would be hit by this surtax? Treasury estimates 392,000 returns have an income over \$1 million,

and of that 311,000 are classified as business owners. So about 80 percent of the people who would get hit by this surtax are the very job creators we are hoping will invest their money into their businesses to help the economy and to create new jobs. How do you create new jobs by taking more earnings away from the very employers who are creating the jobs? So, third, it is bad tax policy.

Fourth, Democrats argue: Well, the wealthy are not paying their fair share, and this too is something that doesn't stand up to scrutiny. These are from the Internal Revenue Service. These are their tables. The top earners pay the bulk of the taxes in this country. In fact, we have the most progressive income tax system of all of the industrialized countries—all of the countries in the OECD. The top 1 percent in our country earns 20 percent of all the income—that is pretty good—but they pay 38 percent of all of the income taxes. The top 2 percent earns about 28 percent of the total income. They pay over 48 percent—almost 50 percent. They pay almost half of all of the income taxes that are paid by the top 2 percent.

Some people say: Well, what about the payroll tax? That is exactly what we are cutting here. Remember? That is what they are getting a tax holiday from paying. So you have the top 2 percent of the people paying 50 percent of the taxes.

What do the bottom half pay? It turns out the Joint Committee on Taxation estimates that 51 percent of all households had either zero or negative income liability for the tax year 2009. So you have 2 percent of the people paying 50 percent and the bottom 50 percent paying none. In fact, the top 5 percent pays a whole lot more than the bottom 95 percent combined. Think of that. In our country the top 5 percent of the earners pay a lot more than the bottom 95 percent combined.

Then the question is: Is it fair to say about the United States progressive income tax code that the wealthy don't pay their "fair share" when the top 1 percent pays 38 percent, the top 2 percent pays almost half of all the taxes? I think that is a canard. I am not trying to defend rich people here, but what I am saying is it is unfair to say they are not paying their fair share.

Finally, my colleague DICK DURBIN—who I believe is going to be here shortly, and I hope will respond to what I am saying here—was interviewed on MSNBC on November 30. He said something that in retrospect I suspect he would say is inaccurate and would take back, but I want to quote him. He is talking about the payroll tax holiday and he said:

Jon Kyl rejected it. He said, no. There's no way we're going to impose any taxes on the wealthy people in this country.

Well, of course, Senator DURBIN knows that we impose a lot of taxes on the wealthy people in this country. He simply misspoke. I understand he sim-

ply misspoke, but it is a manifestation of the political dialogue here of one side accusing the other of favoring the rich over the poor. Can't we ask them to contribute a little bit more? Well, if it is the IRS, we are not asking them, we are forcing them. When the top 2 percent of all of our citizens pays half of all of the taxes and the bottom half pays none, when the top 5 percent pays 95 percent of all of the taxes and 95 percent pays the rest, it is hard to say the rich are not paying taxes.

In any event, my colleague Senator DURBIN, I am sure, would acknowledge that I have not said nor has anyone said, "There is no way we are going to impose any taxes on the wealthy people in this country." They are paying a lot of taxes.

Finally, we extended this tax cut holiday for 1 year a year ago in December. We did that as part of an overall budget deal. The Vice President of the United States, the leaders of the House and Senate negotiated this and the President went along with it. It was part of an overall agreement in which we said we will extend all of the existing tax rates, the so-called Bush tax cuts, that is, the rates that have been in effect since 2001 and 2003. We said we would extend this temporary tax holiday from the payroll tax cut. We would extend all of those. I supported that.

Frankly, that was the right thing to do, to extend all of these existing rates. The country at that point could not have stood an increase in taxes of over \$4 trillion, which is what it would have been not to extend the so-called Bush tax cuts. If we can do that again, I am all for it. I will support the extension of the payroll tax holiday. I will support the extension of the payroll tax holiday with other things being done as well. The point is there are times when it absolutely does not make any sense and there are times when it could make sense.

But because of the four other reasons I pointed out, this is what pays for Social Security benefits, it is bad economic policy, it is bad tax policy, and certainly the surtax that would fund this is something that would very much hurt small businesses and job creation. Those are reasons to be very skeptical about continuing this supposedly temporary tax holiday, and we should therefore only do it under circumstances that, in effect, override these objections, one of which would be to extend all of the taxes that expire at the end of next year—at the end of 2012, and to include this in them. That would be a good idea. It is also a good idea to "pay for" it; that is, to find an offset for the revenue loss here because we cannot leave Social Security holding the bag. When we borrow 40 cents of every dollar in general revenue to pay for this lost revenue, obviously, that is not a good idea. So if we can find offsets for it, that is another factor in deciding whether to do it. I believe Republicans will work to find offsets if we, in fact, are going to extend this payroll tax holiday.

Clearly, you don't necessarily need to find offsets to pay for any tax or every tax reduction. We are keeping current rates where they are, for example, when they otherwise would expire at the end of next year. Some people say: Well, that is the Bush tax cuts. That is right. Did revenues to the Treasury go down when the Bush tax rates were reduced in 2001 and 2003? No. Tax revenues—the amount of money coming into the Treasury of the United States—actually increased after the so-called Bush tax cuts. So sometimes, for economic growth reasons, keeping taxes where they are or even reducing them in some cases makes a lot of sense. In this case, however, because you are having to take it out of the Social Security trust fund, you need to replenish that money, you need to pay for it, and that is why we need to have the offsets I spoke of.

The bottom line is the payroll tax cut holiday can be a little confusing. There are some very important reasons not to do this again. It doesn't produce a good result and it can produce some bad results. If there are offsetting policies that more than overcome these bad features, then it is something I think a lot of Republicans will look to. As I said a year ago, I was willing to support the extension of it because we extended the other tax rates as well. If we do that again, obviously, it is something I would be supportive of.

I hope this helps to clarify the debate when we deal with this subject later on this week and perhaps even in the final week—that we at least hope is the final week we are here—before Christmas.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. COONS). The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.